

Admin.

August 20, 2020

Memorandum 2020-42

Minutes of Meeting on August 13, 2020 (Draft)

The California Law Revision Commission held a meeting on August 13, 2020, by teleconference.¹ A draft of Minutes for that meeting is attached for Commissioners to review.

The attached draft will be deemed final after it is approved by a vote of the Commission. When voting, the Commission may make specific changes to the Minutes. If so, those changes will be memorialized in the Minutes for the meeting at which the vote occurred.

The Bagley-Keene Open Meeting Act provides that attendees cannot be required to identify themselves. As a means of observing that rule, the Commission is only listing attendees who have affirmatively consented to being identified in the Minutes, as part of the registration process required for those who wish to attend the meeting.

Respectfully submitted,

Brian Hebert
Executive Director

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

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DRAFT MINUTES OF MEETING
CALIFORNIA LAW REVISION COMMISSION
August 13, 2020

A meeting of the California Law Revision Commission was held on August 13, 2020. Consistent with Executive Orders N-25-20 and N-29-20, the meeting was held as an online video webinar.

Only those members of the public who expressly consented to inclusion in the Minutes are listed as attendees.

Commission:

Present: Victor King, Chairperson
Crystal Miller-O'Brien, Vice-Chairperson
Diane Boyer-Vine, Legislative Counsel
David A. Carrillo
Ana Cubas
Jane McAllister
Richard Rubin
Richard Simpson

Absent: Assembly Member Ed Chau
Senator Richard D. Roth

Staff: Brian Hebert, Executive Director
Barbara Gaal, Chief Deputy Counsel
Kristin Burford, Staff Counsel

Other Persons:

Michael Amster
Mark Burnley
Chris Conley, American Civil Liberties Union of Northern California
Edward Little
Marjorie Murray, Center for California Homeowner Association Law
Elaine Roberts Musser
Gus Petraborg
Steve Rodick
Corby Sturges
Corrigan Wright

CONTENTS

1	Approval of Actions Taken.....	2
2	Minutes	2
3	Administrative Matters.....	2
4	Report of Executive Director	2
5	Commissioner Suggestions.....	2
6	2020 Legislative Program	3
7	Study G-300 — State and Local Agency Access to Customer Information from Communication	
8	Service Providers.....	3
9	Study J-1406 — Statutes Made Obsolete by Trial Court Restructuring (Part 7): Court Reporter	
10	Compensation Statutes.....	3
11	Study J-1406.1 — Statutes Made Obsolete by Trial Court Restructuring (Part 7): Precedential	
12	Value of Appellate Division Decisions	3
13	Study L-3032.5 — Stock Cooperatives and the Uniform TOD Security Registration Act	4
14	Study L-4100 – Nonprobate Transfers: Creditor Claims And Family Protection	4
15	Study X-100 — Emergency-Related Reforms	4

APPROVAL OF ACTIONS TAKEN

Unless otherwise indicated, the Commission decisions noted in these Minutes were approved by all members present at the meeting. If a member who was present at the meeting voted against a particular decision, abstained from voting, or was not present when the decision was made, that fact will be noted below.

MINUTES

The Commission considered Memorandum 2020-32, presenting draft Minutes for the July 9, 2020, meeting.

The Commission approved the Minutes without change.

ADMINISTRATIVE MATTERS

Report of Executive Director

The Executive Director briefed the Commission on two matters:

- (1) The possibility of using a dedicated email account for Commission-related communications, to simplify compliance with a public record request.
- (2) The status of the Commission’s recent report on *Pending Sunset Dates* (July 2020).

Commissioner Suggestions

No suggestions were made.

1 **Election of Officers**

2 The Commission postponed consideration of Memorandum 2020-41,
3 discussing the election of officers for 2020-21. The memorandum will be taken up
4 at the September meeting.

5 2020 LEGISLATIVE PROGRAM

6 The Commission considered Memorandum 2020-33, which discusses the
7 Commission's 2020 Legislative Program.

8 This was a purely informational memorandum. No Commission action was
9 required or taken.

10 STUDY G-300 — STATE AND LOCAL AGENCY ACCESS TO CUSTOMER INFORMATION
11 FROM COMMUNICATION SERVICE PROVIDERS

12 The Commission postponed consideration of Memorandum 2020-36, which
13 discusses the meaning of "interception," as that term is used in the federal and
14 state wiretap statutes. The memorandum will be taken up at the September
15 meeting.

16 STUDY J-1406 — STATUTES MADE OBSOLETE BY TRIAL COURT RESTRUCTURING
17 (PART 7): COURT REPORTER COMPENSATION STATUTES

18 The Commission considered Memorandum 2020-39 and its First Supplement,
19 which discuss when to recommence work on updating the court reporter
20 compensation statutes to reflect trial court restructuring. The Commission
21 decided not to recommence such work at this time.

22 The staff should reexamine and specifically address this issue each year in the
23 annual memorandum on new topics and priorities.

24 There is no need to take any special steps to memorialize the work that has
25 already been done on this topic.

26 STUDY J-1406.1 — STATUTES MADE OBSOLETE BY TRIAL COURT RESTRUCTURING
27 (PART 7): PRECEDENTIAL VALUE OF APPELLATE DIVISION DECISIONS

28 The Commission considered Memorandum 2020-40, which discusses whether
29 to propose statutory guidance on the precedential value of an appellate division
30 decision. The Commission decided not to further pursue this topic.

1 STUDY L-3032.5 — STOCK COOPERATIVES AND THE
2 UNIFORM TOD SECURITY REGISTRATION ACT

3 The Commission considered Memorandum 2020-38, which discusses the
4 adaptation of the Uniform TOD Security Registration Act (Probate Code Sections
5 5500-5512) to allow a nonprobate transfer of an owner’s interest in a stock
6 cooperative.

7 The Commission decided that the beneficiary of such a transfer should be
8 liable for the unsecured debts of the deceased transferor. The proposed law will
9 borrow the liability provisions in the statute on revocable transfer on death deeds
10 (Prob. Code § 5600 *et seq.*), including the changes and additions that were
11 recommended by the Commission in its most recent study of that law, with
12 minor adjustments needed to apply those provisions to a stock cooperative.

13 STUDY L-4100 – NONPROBATE TRANSFERS:
14 CREDITOR CLAIMS AND FAMILY PROTECTION

15 The Commission considered Memorandum 2020-37, which discusses
16 stakeholder comment on the possible application of probate family protections to
17 nonprobate transfers.

18 After considering that comment, the Commission decided not to continue
19 work on the topic.

20 STUDY X-100 — EMERGENCY-RELATED REFORMS

21 **Commission Study Authority**

22 The Commission considered Memorandum 2020-34 and its First Supplement,
23 which discuss the possibility of requesting additional authority to study
24 emergency-related reforms.

25 The Commission decided to request a grant of authority along the following
26 lines:

27 (a) The Law Revision Commission is authorized to study and
28 recommend statutory reforms to provide special rules that would
29 apply only to an area affected by one of the following:

30 (1) A state of disaster or emergency declared by the federal
31 government.

32 (2) A state of emergency proclaimed by the Governor under
33 Section 8625 of the Government Code

1 (3) A local emergency proclaimed by a local governing body or
2 official under Section 8630 of the Government Code.

3 (b) Before beginning a study under this authority, the
4 Commission shall provide notice to legislative leadership and any
5 legislative policy committee with jurisdiction over the proposed
6 study topic and shall consider any formal or informal feedback
7 received in response to the notice.

8 **Teleconference Meetings in Common Interest Developments**

9 The Commission considered Memorandum 2020-35 and its First and Second
10 Supplements, which discuss rules for conducting common interest development
11 meetings by teleconference during an emergency. For the purposes of preparing
12 a tentative recommendation, the Commission approved language along the
13 following lines:

14 **ARTICLE 11. EMERGENCY POWERS AND PROCEDURES**

15 5450. (a) This section only applies to a common interest
16 development that is in an area affected by one or more of the
17 following conditions:

18 (1) A state of disaster or emergency declared by the federal
19 government.

20 (2) A state of emergency proclaimed by the Governor under
21 Section 8625 of the Government Code.

22 (3) A local emergency proclaimed by a local governing body or
23 official under Section 8630 of the Government Code.

24 (b) Notwithstanding subdivision (b) of Section 4090, any other
25 law, or the association's governing documents, a board meeting or
26 meeting of the members may be conducted entirely by
27 teleconference, without any physical location being held open for
28 the attendance of any director or member, if all of the following
29 conditions are satisfied:

30 (1) The meeting notice provides clear technical instructions on
31 how to participate by teleconference.

32 (2) The meeting notice provides the telephone number and
33 electronic mail address of a person who can provide technical
34 assistance with the teleconference process, both before and during
35 the meeting.

36 (3) Any vote of the directors shall be conducted by a roll call
37 vote.

38 (4) Any person who is entitled to participate in the meeting shall
39 be given the option of participating by telephone.

40 **Comment.** Section 5450 is new.

41 Subdivision (a) governs the application of the section. See also
42 U.S.C. §§ 247d (federal public health emergency), 5120-5208
43 (federal disaster relief).

1 Subdivision (b) authorizes meetings to be conducted entirely by
2 teleconference, if certain conditions are met.

3 In addition, the Commission directed the staff to present options for the
4 method of delivering a notice for a meeting held under the proposed law.

5 The Commission decided against recommending any “broader reforms” in
6 this study (i.e., a general improvement to common interest development law that
7 is not strictly necessary to address an emergency), including those described on
8 pages 6-8 of Memorandum 2020-35.

APPROVED AS SUBMITTED

Date

APPROVED AS CORRECTED
(for corrections, see Minutes of next meeting)

Chairperson

Executive Director